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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re CHLOE S. et al.,

Persons Coming Under the
Juvenile Court Law.

B294018

(Los Angeles County
Super. Ct. No. DK10154)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

BRUCE S.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles
County, Karin Borzakian, Juvenile Court Referee. Affirmed.

John L. Dodd, under appointment by the Court of Appeal,
for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles, Assistant County Counsel, and Jessica S. Mitchell, Deputy County Counsel, for Plaintiff and Respondent.

Bruce S. appeals from orders that he have no visitation with his daughters, Chloe S. and Naomi S. He contends the juvenile court could not terminate visitation absent a finding of a risk of harm to the girls' physical safety; the orders could not be based on the risk of emotional harm. Bruce S. also contends the orders must be reversed due to the failure of the Department of Children and Family Services (DCFS) to comply with previous orders for visitation. We conclude that, as an alleged father, Bruce S. lacks standing to challenge the juvenile court's no visitation order. We therefore affirm.

BACKGROUND

I. Family Background

In 2001, DCFS filed a Welfare and Institutions Code section 300¹ petition as to Bruce S.'s child from a previous relationship, Zachary S., based on domestic violence. Bruce S.'s parental rights as to Zachary S. were terminated in 2003.

Bruce S. subsequently entered into a relationship with S.R. (Mother). Chloe was born in 2006; Naomi, in 2007. Sometime in 2007, Mother began living with Ronald S., who was on parole for

¹ Unless otherwise specified, all further statutory references are to the Welfare and Institutions Code.

molesting his two-year-old daughter. Mother gave birth to a son, A.S., in 2009; she named Ronald S. as the father.

DCFS and other child welfare agencies received referrals for the family, beginning in 2007, after Bruce S. attacked and threatened Mother while she was pregnant with Naomi. Referrals regarding Mother and Ronald S. involved neglect and domestic violence, as well as concerns that the children were living with a registered sex offender.

In 2008, Chloe presented at a hospital emergency room with “multiple skull fractures in various stages of healing.” Doctors could not agree on the cause, so allegations of physical abuse were deemed inconclusive. A month later, Mother gave Chloe and Naomi to friends, allegedly so she could go with Ronald S. to Idaho. At this time, DCFS noted that Mother was “mentally delayed” and a regional center client; this may have affected her ability to care for her children appropriately.

In June 2010, while Mother and Bruce S. argued, Bruce S. struck Chloe on her back two times with his hand. Law enforcement officers called to the scene observed that Chloe had large, reddened/bruised marks on her back, one in the shape of a hand; she appeared distraught and would not stop crying. Officers arrested Bruce S., and Mother obtained an emergency protective order against him.

In October 2013, it was reported that Bruce S. locked A.S. and one of the girls in a closet. Then in December 2013, Mother observed Chloe and Naomi performing oral sex on one another. They told Mother they were “just doing what’s natural.” Chloe told Mother that she had seen people engaged in sexual activity on television while visiting Bruce S. that summer. Mother said she would no longer allow the girls to visit Bruce S.

Two referrals in 2014, based on emotional abuse and Ronald S. residing with Mother and the children, were closed as inconclusive.

II. The Section 300 Petition

A. The Petition Based on Ronald S.'s Substance Abuse

In January 2015, DCFS received a referral stating that a warrant for Ronald S.'s arrest, for being under the influence of drugs and having syringes in his possession, was being executed. DCFS filed a section 300 petition² on February 18, 2015. It alleged the children were at risk of serious physical harm or illness based on the parents' failure to supervise or protect the children or inability to provide regular care for the children (§ 300, subd. (b)). This allegation stemmed from Mother's ostensible failure to protect the children from Ronald S.'s substance abuse (count b-1), being a registered sex offender (count b-2), mental and emotional problems, including bipolar disorder (count b-3), and allowing an unrelated adult to use drugs in the home in the children's presence (count b-4). The petition also alleged Mother allowed Ronald S. to live in the home, placing the children at risk of sexual abuse (§ 300, subd. (d); count d-1).

At the detention hearing, the juvenile court found a prima facie case for detention and ordered the children detained from Bruce S. and Ronald S. The court ordered DCFS to conduct a due diligence search for Bruce S., who was not present at the hearing; the court deemed him to be the alleged father of Chloe and Naomi.

² The petition listed Bruce S.'s last known address as Custer Avenue in Bakersfield.

B. *The First Amended Petition Based on Mother's
Mental Health Issues*

On March 31, 2015, DCFS detained all three children and placed them in three separate foster homes. Mother appeared to be suffering from depression and mental illness; she claimed she saw ghosts, who attacked her. She refused to have a mental health evaluation. Mother also had difficulty controlling the children, who were exhibiting behavioral problems. The detention report noted that a CSW asked Mother about Bruce S.'s whereabouts; she said she did not know where he was.

DCFS filed a first amended section 300 petition on April 8, 2015. It added allegations under subdivision (b) based on Mother's mental and emotional problems (count b-5) and allegations under subdivisions (b) and (j) based on the termination of Bruce S.'s parental rights as to Zachary S. (counts b-6, j-1).

III. Jurisdiction/Disposition as to Section 300 Petition

According to the April 14, 2015 jurisdiction/disposition report, Bruce S.'s whereabouts remained unknown. A CSW interviewed the children prior to their detention. Chloe stated that she was afraid of Bruce S., because he hit her on the back with his hand and hurt her. Chloe also saw Bruce S. punch Mother with his fist. Chloe wanted no contact with Bruce S. Naomi said she did not remember Bruce S. A.S. stated that he was afraid of Bruce S., because he remembered an incident from when he was three years old when Bruce S. locked him in a closet. The juvenile court ordered a new and more adequate jurisdiction/disposition report, in part because there was no proper notice as to Bruce S.

In an updated jurisdiction/disposition report dated May 14, 2015, DCFS reported that it had conducted a due diligence search and found two possible addresses for Bruce S.—one on Camp Street and one on North Laurelglen Boulevard, both in Bakersfield. Notice sent to the Custer Street address came back as addressee unknown.

In a last minute information for the court dated June 8, 2015, DCFS reported that it had located Bruce S. in a group home on Camp Street in Bakersfield. Bruce S.'s movements were restricted by court order due to a domestic violence incident. He was scheduled to be released from the group home in 2016. Bruce S. told the DI that he was never violent toward his children and that he never hit Chloe; he got along fine with the children. Bruce S. said he would be unable to attend the next court hearing but would be available by cell phone.

Bruce S. did not appear at the July 7, 2015 jurisdiction/disposition hearing. Mother entered a no contest plea. The court sustained the section 300 petition as to counts b-1, b-6, d-1, and j-1. It declared the children to be dependents of the court; it placed the children in DCFS custody for suitable placement. The court ordered that Bruce S. have monitored visitation with Chloe and Naomi after he contacted the court or DCFS. It also ordered that Bruce S. receive no family reunification services pursuant to section 361.5, subdivisions (1), (10), and (11).

Despite having located Bruce S. at the Camp Street group home, DCFS listed Bruce S.'s address as Custer Street in its October 6, 2015 interim review report; it sent a copy of the report

to him at the Custer Street address. Bruce S. did not appear at the October 6 hearing.³

IV. The Section 342 Subsequent Petition; Bruce S.'s *Alyssa F.* Motion

DCFS filed a section 342 subsequent petition on July 15, 2016.⁴ It alleged that Mother was currently using methamphetamine and amphetamine, which rendered her unable to supervise or protect the children (§ 300, subd. (b); count b-1). DCFS stated that the CSW had received numerous phone calls regarding Mother's drug use. The CSW asked Mother for on-demand drug tests; the tests came back positive for methamphetamine. Mother denied using drugs and claimed someone put them in her food.

Bruce S. appeared in court on July 19, 2016. The court appointed counsel to represent him and continued the matter. On November 17, 2016, Bruce S. requested testing to determine if he was A.S.'s biological father. He also filed a motion pursuant to *In re Alyssa F.* (2003) 112 Cal.App.4th 846 (*Alyssa F.*) to have a

³ The October 6, 2015 interim review report states that on July 6, 2015, the court found Bruce S. to be the father of Chloe, Naomi, and A.S. No such finding appears in the minute order for the July 7 jurisdiction/disposition hearing. There is no reporter's transcript of that hearing. Elsewhere, the report identified Bruce S. as Chloe and Naomi's alleged father and A.S.'s presumed father.

⁴ This petition continued to list Bruce S. as Chloe and Naomi's alleged father and A.S.'s presumed father; however, it stated that the court had found Bruce S. to be the presumed father of all three children on July 7, 2015. The petition continued to list Bruce S.'s address as Custer Street.

new jurisdiction/disposition hearing based on DCFS's failure to provide him with notice of the hearing. The court ordered DNA testing to determine if Bruce S. was A.S.'s biological father; it found him to be an alleged father pending the test results. The court also ordered monitored visitation for Bruce S.

In a supplemental report dated March 2, 2017, DCFS recommended that Bruce S. not be given visitation with the children based on his "extensive child welfare history." The CSW had told Chloe and Naomi on December 10, 2016 that Bruce S. and the paternal grandmother wanted to visit them. Chloe said she did not want to see Bruce S. or the paternal grandmother. Naomi started crying and said she did not want to see Bruce S. or Ronald S. "ever. They are very mean to us." Naomi later said she would see the paternal grandmother, because "she wasn't really mean to us." The CSW told the girls she would not force them to do anything they did not feel comfortable doing.

At the March 2, 2017 hearing, the court⁵ ordered that the children be referred for individual counseling. Once they were in counseling, Bruce S. would be permitted monitored visits in a therapeutic setting.

As of the May 2, 2017 hearing, Bruce S. had not yet contacted DCFS regarding visitation. The court⁶ sustained the section 342 subsequent petition. The hearing on Bruce S.'s *Alyssa F.* motion was continued; the court ordered DCFS to

⁵ Juvenile Court Referee Robin R. Kesler. Both Juvenile Court Referee Kesler and Commissioner Karin Borzakian, sitting as a juvenile court referee, made rulings on Bruce S.'s requests for visitation.

⁶ Commissioner Borzakian.

respond to the motion and to complete DNA testing as to A.S. The court set a section 366.26 selection and implementation hearing and notified the parents of the right to file a writ petition.⁷

On June 12, 2017, DCFS reported that the results of the DNA testing excluded Bruce S. as A.S.'s biological father. DCFS then filed opposition to Bruce S.'s *Alyssa F.* motion. DCFS argued that Bruce S. had actual notice of the dependency proceedings and, even if he did not have actual notice, the court need not vacate the jurisdiction/disposition order absent a miscarriage of justice.

The court⁸ denied Bruce S.'s *Alyssa F.* motion on June 26, 2017. It found that Bruce S. remained an alleged father.

In the August 30, 2017 section 366.26 report, DCFS noted that Bruce S. had not yet had any monitored visitation with the children. DCFS recommended that he not have visitation because the children had requested not to have contact with him. DCFS also recommended a permanent plan of adoption and that Mother's and Bruce S.'s parental rights be terminated.

Both parents were present at the August 30, 2017 hearing; the court⁹ found both parents had received service of the section 366.26 report. Bruce S.'s counsel raised the issue of the lack of visitation and Bruce S.'s complaint that the CSW did not return his calls. Counsel for DCFS noted that Juvenile Court Referee

⁷ Although Bruce S. filed a notice of intent to file a writ petition, he never filed a writ petition; the writ was deemed nonoperative.

⁸ Juvenile Court Referee Kesler.

⁹ Commissioner Borzakian.

Kesler, who denied Bruce S.’s *Alyssa F.* motion, “made a no-visitation order based on the children’s statement. The reports [state] that the children are still being traumatized and remembering how [the alleged] father used to lock them in the closet.” DCFS “strenuously object[ed] to any sort of visitation order at this point.” Bruce S.’s counsel continued to request a contested hearing, based on “parent bonding.” At both parents’ request, the court set a contested section 366.26 hearing as to Chloe and Naomi for November 14, 2017.

At the November 1, 2017 hearing, the court ordered DCFS to prepare a report by April 18, 2018—the date set for finalization of the permanent plan of adoption—“to address whether visitation with Bruce S. would be beneficial or detrimental” for the children. In an addendum report, DCFS informed the court that Chloe and Naomi told the CSW they did not want to visit with Bruce S. They said that Bruce S. put them in the closet and hit them.

V. Bruce S.’s Section 388 Request

Bruce S. filed a section 388 request to change order on November 6, 2017. He requested that the court change the order denying his *Alyssa F.* motion and return the matter for a new disposition, based on Bruce S.’s completion of a domestic violence program and the lack of proper notification. On November 14, 2017, finding no prima facie showing of changed circumstances or credible evidence that the children’s best interests would be promoted by the proposed change, the court denied Bruce S.’s request. It noted that the evidence of Bruce S.’s completion of a domestic violence program was available to him prior to the *Alyssa F.* motion. The court further noted: “[Bruce S.] is also an

alleged father, at this point. He has not been elevated to presumed.”

Bruce S.’s counsel then reminded the court that it “did make an order on March 2nd for therapeutic visits. On November 1st, at the last court date, the court did make an order to implement those visits over counsel—for the minor and [DCFS]’s objection. And my client is requesting visits. There’s no showing of a substantial risk of harm to the children should any kind of visitation occur, but especially visits in a therapeutic setting.” The court ordered DCFS to reach out to Chloe’s and Naomi’s current therapist to determine whether the therapist recommended therapeutic visitation with Bruce S.

Bruce S. filed a notice of appeal from the November 14, 2017 denial of his section 388 motion. Bruce S.’s counsel filed a no merit brief (*In re Phoenix H.* (2009) 47 Cal.4th 835); Bruce S. did not file a supplemental brief. We dismissed the appeal on August 27, 2018.

VI. Bruce S.’s Repeated Attempts To Have Visitation

In a December 27, 2017 addendum report, DCFS reported that it had contacted Chloe and Naomi’s therapist, John Gavegnano, who stated he was unable to provide any information or make any recommendations due to confidentiality issues. His supervisor informed DCFS that the court could request a subpoena for documents.

At the January 10, 2018 hearing, the court¹⁰ indicated that it would make an order that would allow therapist Gavegnano to release information to the children’s counsel. Bruce S.’s counsel

¹⁰ Commissioner Borzakian.

then raised the issue of Bruce S.'s visitation with the children in a therapeutic setting, noting the court had previously ordered visitation; counsel complained DCFS "is not doing anything to implement" the order for visitation. The children's counsel responded that "all three children have said pretty unequivocally that they don't want visits with [Bruce S.], but I think I will talk with the therapist and see if they can see if therapeutic visits might work."

After further discussion of previous rulings and Bruce S.'s status, the court stated: "I would like to make it clear that this issue cannot come up at every hearing and take this much time. . . . [Bruce S.] is not a presumed father. He remains an alleged father." The court recalled that its order was that therapeutic visits take place if the children's therapist felt it was appropriate. However, there remained "issues with therapists making contact." Bruce S.'s counsel complained "that sounds like the court is allowing nothing to happen." Counsel requested a contested hearing on the issue of visitation. The court responded that it was going to deny the request but have the children's counsel get a recommendation from their therapist as to visitation. After the court got the recommendation, it would "make [its] orders regarding visitation for the alleged father." The court acknowledged the March 2, 2017 order for visitation in a therapeutic setting but added: "That doesn't mean that I did not change my orders later on and indicate that the therapist's recommendation is necessary, and I believe that's what I did"

At Bruce S.'s counsel's request, the court ordered DCFS to interview Bruce S. "in reference as to why [the children] do not want to visit" Bruce S. The court also ordered: "The therapist is

to provide a recommendation if visitation is appropriate to occur with the father and [the children] in a therapeutic setting. The [c]ourt is to make an order based upon the recommendation.”

On March 8, 2018, DCFS reported that the CSW had interviewed Bruce S. Bruce S. denied hitting the children or locking them in a closet.

On March 15, 2018, therapist Gavegnano was present in court. The court¹¹ ordered him to provide information to assist the court in making a decision regarding visitation. Gavegnano then reported that he was no longer the girls’ therapist; they had finished their therapy about two weeks earlier. The court stated it still wanted him to prepare a report.

In anticipation of the April 30, 2018 hearing, DCFS reported that it had attempted to contact Gavegnano several times to get a progress letter. DCFS received a call from his supervisor on April 30 stating there was no progress letter and Gavegnano was out sick. According to the supervisor, Gavegnano had attempted unsuccessfully to obtain the list of questions he was to answer from the children’s counsel.

At the hearing,¹² Bruce S.’s counsel argued that Bruce S. “hasn’t had visitation since this case began, and the children will say at various times that they don’t want visitation and they’ve been told that [Bruce S.] abused them their whole lives by the mother. There’s no sustained allegations, nothing of that nature that the court or [DCFS] can rely on . . .” Mother’s counsel responded that “on January 9, 2018, the court reiterated that . . .

¹¹ The case came back before Juvenile Court Referee Kesler.

¹² Before Juvenile Court Referee Diane C. Reyes.

[Bruce S.] . . . is not the presumed father. There are no orders or requirements at this point in time.” Additionally, “the court indicated that until the therapist’s recommendation comes in, the court” would not make an order for visitation. Mother’s counsel added that “[a]s for the statements about the mother sabotaging, your honor, that’s conjectured by the father’s counsel.”

After further argument, Bruce S.’s counsel requested a visitation order. The court responded: “See, the court has already made a visitation order that the father is to have visits. The court isn’t disturbing that particular order. However, I understand that it’s the children that are refusing to visit . . . ?” The children’s counsel agreed, stating that the children told her they were scared of Bruce S. The court then stated that “based upon the arguments of counsel, I will order therapeutic visits for the alleged father and his two children. And if those therapeutic visits . . . go well, then [DCFS] has discretion to allow regular monitored visits, but I do want at least some therapeutic visits until the [section 366.26 hearing].”

In the June 1, 2018 interim review report, DCFS noted that the CSW spoke privately to Chloe during a sibling visit with A.S., who was in a different placement than Chloe and Naomi. Chloe stated that she enjoyed spending time with A.S. She said that she did not want to have visits with Bruce S., and she wanted to know why the court was asking her to visit with him. The CSW later spoke privately to Naomi. Naomi also liked visiting with A.S. and said she misses him. She, too, said she did not want to visit with Bruce S.

DCFS heard from Gavegnano on May 7, 2018. He stated that his agency is not a therapeutic setting for monitored

visitation and he could not provide that service. He stated he would provide the court with an evaluation letter, nevertheless.

At the June 1, 2018 hearing,¹³ Bruce S.'s counsel complained that despite the many orders for visitation in a therapeutic setting, Bruce S. still had not had any visitation, "[a]nd so it seems like we're at a juncture where [DCFS] cannot implement the court's orders for therapeutic setting. It's been six months now, your honor, and every hearing I make the argument that my client is due visitation unless they can show significant risk of substantial physical harm and there is no showing of that." Counsel requested that the court order monitored visitation at the DCFS offices. He added that Bruce S. would "not object to conjoint therapy" with the children.

The court stated that it had two choices: "I can do this in a therapist's office as conjoint therapy or I can get a visit with [Bruce S.] at [DCFS's] office, monitored. . . . I wouldn't say that conjoint when the children's therapists say[] they're ready." The children's counsel requested conjoint therapy, based on the children's expressed fear of Bruce S. Counsel for DCFS noted Bruce S.'s denial of the allegations of physical abuse but stated "the fact of the matter is the children believed that it happened. So regardless of [what] may or may not have happened in the past, . . . the children are still traumatized, and the father doesn't seem to understand that that's the concern" with respect to the children's statements that they did not want to visit with Bruce S. Based on these concerns, DCFS counsel believed conjoint therapy would be more appropriate. Counsel also noted

¹³ Before Juvenile Court Referee Kesler again.

that Bruce S. had not called DCFS regarding any request for visits.

The court stated that it was going to give DCFS until June 14, 2018 to identify a conjoint therapist and set a date as to when the first therapy session would take place. It would not condition the order for visitation on the children's therapist saying the children were ready; there was no evidence in the record to show the children were in grave fear, and no evidence from which the court could make a finding of detriment.

VII. Monitored Visitation Ordered

In a June 14, 2018 last minute information for the court, DCFS documented its still unsuccessful attempts to arrange for conjoint therapy. At the hearing,¹⁴ Bruce S.'s counsel stated that Bruce S. was "requesting that the court order DCFS to monitor visits at this point. He's the presumed father of Chloe and Naomi and entitled to visits if there's no finding of detriment." Counsel for DCFS stated her understanding, "according to the social worker, the girls don't particularly want to have visits with the father, but I did indicate [DCFS] can certainly set it up and . . . arrange for the children to be transported. [DCFS] would submit to monitored visits approved by a DCFS-approved monitor at a DCFS-approved location, whether that be a DCFS office or a neutral setting to start."

The court observed: "It appears [DCFS] is unable to follow the court's instructions or get it accomplished in a timely fashion

¹⁴ The reporter's transcript lists Juvenile Court Referee Kesler as the judge. The clerk's transcript lists Commissioner Borzakian.

on this case.” It ordered DCFS to provide two 15-minute monitored visitations at the DCFS office during the week of June 25, and two 30-minute visitations the following week.

DCFS reported on the visitation in its September 28, 2018 interim review report. On June 28, 2018, Chloe and Naomi were transported to the DCFS office for a visit with Bruce S. The girls asked if they had to visit with Bruce S. The CSW informed them the court had ordered the visit. The CSW said she told the court they did not want to see Bruce S., but the court did not listen. The CSW “apologized and encouraged them when they go to Court to tell their attorney.” When they arrived at the DCFS and Bruce S. was there, the girls held hands and cried; they refused to greet Bruce S. Bruce S. brought gifts for the girls and tried to engage with them, but the girls refused to engage with him. After the visit, the girls reiterated that they did not want to see Bruce S. They recalled that he hit them and locked them in the closet, and he was mean to them. A visit the following day had similar results.

When the CSW took the girls to the DCFS office on July 16, 2018 for a visit, Chloe asked if she had to see Bruce S.; she did not want to see him. The CSW told her and Naomi to let the CSW know when they wanted to end the visit. Bruce S. showed them pictures from when they were younger and brought games to play. Chloe and Naomi did not respond. They hugged each other the whole time; when Bruce S. said Chloe’s name, she cried. After the visit, the CSW apologized for making the girls stay there for the whole 15 minutes.

Visits on August 18 and September 1, 2018 also did not go well. The girls did not want to get out of the car and visit with

Bruce S. Bruce S. told the CSW he did not understand why the girls were so shy around him, because he was their father.

VIII. Visitation Is Terminated; Bruce S. Appeals

At the September 28, 2018 hearing, counsel for the children requested that the court¹⁵ terminate Bruce S.'s visits with Chloe and Naomi. Chloe and Naomi had told counsel that they were very afraid of seeing Bruce S. and did not want to visit with him. DCFS agreed with this request, stating that DCFS "has made a lot of effort to coordinate the visits between the girls and their father. But the children are very resist[a]nt, and [DCFS] believes that at this time, it would be in the children's best interest not to have visits occur."

Bruce S.'s counsel argued "the standard to find no contact is a substantial risk of significant harm, and [he did not] believe that the evidence before the court allows that that finding such that no visits would occur." He requested that visitation continue and that the court order conjoint therapy.

Following this request, the court took a brief recess because Chloe and Naomi "seemed decomposed. They seemed upset." The girls did not return to the courtroom after the recess. Their counsel explained that the girls "just seem to be having very traumatic responses to even the thought of visiting."

The court responded: "I'll note for the record that I was watching both Naomi and Chloe in the back as we were discussing visitation. Naomi started hiccupping. Kind of crying. And Chloe also was extremely emotional. Was holding Naomi. And they were cowering. Chloe was holding her in that fashion.

¹⁵ Commissioner Borzakian.

And she just appeared extremely, extremely frightened and very emotional. And based on the report, and what I have read in the report, it appears that they are having these reactions to [Bruce S.] and visitation with [Bruce S.]. That is consistent with the report.

“At this time, based on what I’ve seen and read, I am going to make a finding that it is detrimental for the children’s well being to visit with [Bruce S.] I am going to order that the children continue to receive individual counseling and therapy in order to address their issues so that, hopefully, they can work their way through therapy to start visiting with [Bruce S.]” The court made a finding of detriment and ordered that there be no visitation between the girls and Bruce S.

Bruce S. timely appealed.

DISCUSSION

I. Contentions on Appeal

Bruce S. raises three contentions on appeal. First, he contends the juvenile court erred in stopping visitation absent substantial evidence of a risk of harm to the girls’ physical safety; the risk of emotional harm was not sufficient. Second, Bruce S. contends the court erroneously delegated the question whether visitation should occur to the girls. Finally, Bruce S. asserts that the no-visitation order must be reversed based on DCFS’s failure to comply with the court orders for visitation in a therapeutic setting.

DCFS contends that because Bruce S. is an alleged father, and not a presumed father, he has no standing to challenge the juvenile court’s order that there be no visitation between him and

the girls. DCFS adds, in any event, that the court's order was supported by substantial evidence.

We turn first to the issue of standing.

II. Standing To Challenge the No Visitation Order

As set forth above, there were times when both DCFS and Bruce S.'s counsel referred to him as a presumed father. It is clear, however, that the court never found him to be a presumed father. It found him to be an alleged father.

“‘In dependency proceedings, “fathers” are divided into four categories—natural [or biological], presumed, alleged, and de facto.’ [Citation.] The distinction is important because only a presumed father is entitled to custody and reunification services. [Citations.]” (*In re E.T.* (2013) 217 Cal.App.4th 426, 436-437.) An alleged father does not have the same rights as a presumed father and, in particular, an alleged father has no right to visitation. (*In re O. S.* (2002) 102 Cal.App.4th 1402, 1410.)

An alleged father has the rights to notice, to appear, and to attempt to change his paternity status to that of a presumed father. (*In re Karla C.* (2003) 113 Cal.App.4th 166, 179; *In re O. S.*, *supra*, 102 Cal.App.4th at p. 1408.) An alleged father has no standing to challenge other orders. (*In re Eric E.* (2006) 137 Cal.App.4th 252, 262; *Alyssa F.*, *supra*, 112 Cal.App.4th at p. 855.)

Bruce S. argues that DCFS forfeited its claim that he has no standing to challenge the no visitation order. This argument is based on DCFS's failure to object when, on June 14, 2018, Bruce S.'s counsel referred to him as a “presumed father.”

Bruce S. relies on the “general rule[that] failure to object at the hearing forfeits a claim of error on appeal.” (*In re A.S.*

(2018) 28 Cal.App.5th 131, 151.) However, “whether one has standing in a particular case generally revolves around the question whether that person has rights that may suffer some injury, actual or threatened.” (*Clifford S. v. Superior Court* (1995) 38 Cal.App.4th 747, 751.) Bruce S. does not show that DCFS’s failure to object to his counsel’s erroneous reference to him as a presumed father was sufficient to confer such standing on him. (*Id.* at p. 755.)

Bruce S. stresses he submitted a JV-505 statement regarding parentage in connection with a November 17, 2016 hearing, setting forth that he signed a voluntary declaration of paternity for Chloe, and including facts on which he based his claim he was a presumed father of Naomi. Prior to this hearing, the court had determined parentage and found Bruce S. was an alleged father of Chloe and Naomi. The minute order for the November 17, 2016 hearing does not indicate that the court made any change to its prior parentage finding at that hearing. Nor is there anything else in the record to show that Bruce S. is a presumed father.

In sum, Bruce S. never obtained presumed father status; he was an alleged father only. As such, he had no right to visitation with Chloe and Naomi and no standing to challenge the juvenile court’s order that he have no visitation. We therefore have no basis for overturning that order.

DISPOSITION

The order is affirmed.

NOT TO BE PUBLISHED

JOHNSON, J.

We concur:

ROTHSCHILD, P. J.

WEINGART, J.*

* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.